THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.23132 OF 2005

-

-

Between:

-

S.P.Sampathy's Siva Sivani Educational Society.

.. Petitioner

and

The Secretary and another

.. Respondent

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.23132 OF 2005

-

ORDER:

-

This writ petition presents one of the offshoots of litigation in relation to the institutions established by one late S.P.Sampathy through M/s. Siva Sivani Educational Society, in the year 1966.

In view of the property disputes that arose in the family of late Sampathy, proceedings came to be initiated in the Courts and ultimately in view of a settlement arrived at among them, the institutions were divided between the two societies, namely, the petitioner society and Siva Sivani Educational Society. One of the institutions that was allotted to the petitioner society, was transferred in favour of a third society, by name, M/s.S.S. (Sampathy Sharma) Educational Society (for short 'the transferee society') and the institution was renamed as Sivani The International School.

Some doubt existed as to whether the transfer of the said institution was in accordance with the provisions of A.P. Education Act and the Rules made there under. The Regional Joint Director of School Education took the view that no permission is necessary for transfer of institution. However, the Secretary to the Government, the first respondent, through letter, dated 27.01.2005, had set aside the said clarification and took the view that transfer of institutions from one agency to another is impermissible. W.P.No.2566 of 2005 was filed by the transferee society challenging the letter, dated 27.01.2005, issued by the first respondent. The writ petition was disposed of on 10.03.2005 holding that the said letter was issued without notice to the affected parties as such, cannot be sustained in laws. The first respondent was directed to pass fresh orders, after giving opportunity to all the affected parties.

Pursuant to the orders passed by this Court in W.P.No.2566 of 2005, the first respondent passed a detailed and well considered order in Memo, dated 21.10.2005. It was held that the transfer of the institution by the petitioner in favour of the transferee society was contrary to Rule 10(23) of the Rules contained in G.O.Ms.No.1, Education, dated 01.01.1994. It was also noticed that though the petitioner made an application under Rule 21 of the said Rules seeking relaxation, no orders have been passed thereon.

The grievance of the petitioner is that non-consideration of the application made by it, under Rule 21, seeking relaxation from the requirement under Rule 10(23) is illegal and arbitrary. It is pointed out that if immediate steps are not taken, there is

every likelihood of the second respondent, the affiliating agency, taking punitive action against the institution.

Heard Sri K. Ramakanth Reddy, the learned counsel for the petitioner, the learned Government Pleader for School Education and Sri S.R.Ashok, the learned senior counsel for the second respondent.

Sri S.Srinivas Reddy, the learned counsel, who filed Caveat on behalf of M/s. Siva Sivani Educational Institution, submits that though the letter, dated 27.01.2005, which was the subject matter of W.P.No.2566 of 2005, was issued at the instance of his client and though it was a party in the said writ petition, the petitioner has deliberately omitted to make the said society as a party to the writ petition. The learned counsel for the petitioner submits that the said society cannot be treated as a proper or necessary party to this writ petition.

The grievance of the petitioner canvassed in this writ petition is very limited. The Government framed The Andhra Pradesh Educational Institutions (Establishment, Recognition, Administration and Control of Schools Under Private Managements) Rules, 1993, in exercise of its powers under A.P. Education Act 1982. The Rules prescribe the procedure for establishment, administration and management of the Schools. Rule 10 (23) prohibits the transfer of educational institutions from one educational agency to another such agency. It is true that Rule 21 empowers the first respondent to relax any provisions of the Rules, to relieve any undue hardship to any educational institution, or in public interest. In the context of the transfer of the institution by the petitioner in favour of the transferee society, the petitioner made applications/representations under Rule 21 on 24.03.2005 and 29.03.2005 seeking relaxation. Obviously, these applications were subsequent to the transfer, which is said to have been made by it already. In fact, the first respondent has taken notice of the said applications in his Memo, dated 21.10.2005.

The question as to whether the petitioner deserves to be granted such a relaxation, needs to be considered by the first respondent. Having regard to the fact that the career of several students is involved, the applications deserve to be considered without much loss of time. Though the learned counsel for the petitioner

submits that the first respondent could have dealt with the said applications, while passing the Memo, dated 21.10.2005, this court is not impressed with that submission. The context was totally different. In fact, the first respondent left the consideration of the applications of the petitioner under Rule 21 to be undertaken separately.

Having regard o the facts and circumstances of the case, the writ petition is disposed of, directing the first respondent to pass appropriate orders on the applications filed by the petitioners dated 24.03.2005 and 29.03.2005 under Rule 21, within three weeks from the date of receipt of a copy of this order. It shall be open to the interested parties or societies to put forward their submissions in this regard and if such representations are made, the first respondent shall take the same into account before passing any orders.

_____

27.10.2005

Note: Issue C.C. in two days

(B/o)

kdl

-

-

-